

REMARKS:

**Status of claims**

Claims 1-3 are pending in the application. In the Office Action dated December 13, 2006, the Examiner rejected claims 1-3 under 35 U.S.C. 102(a) as being anticipated by Cho.

**Claim 1: checking a shift range selection state**

The Examiner referred to Cho's column 4, lines 6-10 as allegedly teaching checking a shift range selection state. However, referring to Cho's Figure 2, all steps of Cho's method that occur after the "yes" arrow output from step S210 have the fact that the inhibitor switch is malfunctioning as a given. Cho defines an inhibitor switch as "a sensor for detecting a shift range designated by a driver" (column 1, lines 15-16). In other words, the method is carried out only if a shift range selection state cannot be checked, since the sensor for detecting the shift range selection state is malfunctioning.

The passage cited by the Examiner as allegedly teaching checking a shift range selection state refers to Cho's step S230, which, referring to Figure 2, like all of Cho's steps, is only entered if the inhibitor switch is malfunctioning at step S210. This step, then, does not check a shift range selection state, nor does any other.

Further, the cited passage states:

The vehicle speed value of 0 implies that the vehicle is stopped, and therefore, assuming that the actual shift range is a parking P or neutral N range is not believed to cause any harm in controlling the shift operation of the automobile transmission 180 (column 4, lines 6-10, emphasis added).

That is to say, Cho checks whether the vehicle speed is 0, and, based on this information, assumes an actual shift range. Cho simply does not teach or suggest "checking a shift range selection state" (claim 1, line 3). Claims 2-3 depend directly from claim 1. All pending claims are thus patentable over Cho.

**Claim 2: ascertaining whether said shift range is in N range or D range or in the midst of N-D change control**

Claim 2 further limits the range checking step argued above by reciting that it comprises "ascertaining whether said shift range is in N range or D range; and ascertaining whether said shift range is in the midst of N-D change control." As set forth above, Cho does not teach ascertaining a shift range. The passage referred to by the Examiner in the rejection of claim 2 reads:

in the case that the inhibitor switch malfunctions while the shift lever is moved from neutral N range to drive D range, the last received signal from the inhibitor switch indicates the N range, while the manual valve is repositioned to the drive D range....the manual valve is actually positioned to the drive D range. However...the TCU regards the current position of the shift lever as fixed to the N range (column 1, lines 51-62).

Applicant respectfully asserts that this passage does not teach or suggest ascertaining a shift range, but, on the contrary, teaches that Cho's method is not capable of any such ascertaining. Claim 2 is thus further patentable over Cho.

### Conclusions

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance is respectfully requested.

Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter, or credit any overpayment, to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (matter no. 060945-0144).

Respectfully submitted,



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